IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 18086 of 2007(C)

PETITIONER:

M.S.GANESA PILLAI, ASSISTANT HOSTEL SUPERINTENDENT, INDUSTRIAL TRAINING INSTITUTE, CHAKKAI, THIRUVANANTHAPURAM, UNDER ORDERS OF TRANSFER AS ASSISTANT HOSTEL SUPERINTENDENT, I.T.I., AREACODE, MALAPPURAM DISTRICT.

BY ADV. SRI.S.RAMESH BABU
SRI.V.MADHUSUDHANAN
SRI.PRAMJI PAUL VAZHAPPILLY

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT OF KERALA, LABOUR AND REHABILITATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE ADMINISTRATIVE OFFICER, OFFICE OF THE DIRECTOR OF TRAINING, DEPARTMENT OF INDUSTRIAL TRAINING, THYCAUD, THIRUVANANTHAPURAM.**

3. **M.SASIDHARAN NAIR, HOSTEL SUPERINTENDENT GOVT.I.T.I., CHAKKAI, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.18086/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE GOVT.ORDER G.O.(MS)NO.62/74/PD DT. 19.3.74.

EXT.P2:- COPY OF THE LETTER NO.NTSA/06 DT. 7.4.07 OF THE INDUSTRIAL TRAINING DEPARTMENT NON-TECHNICAL STAFF ASSOCIATION TO THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE GOVT.ORDER GO.(P) NO.12/04/P&ARD DT. 10.9.04.

EXT.P4:- COPY OF THE GOVT.ORDER GO (MS) NO.230/0D DT. 21.7.67.

EXT.P5:- COPY OF THE GOVT.ORDER GO(MS) NO.378/PD DT. 18.12.68.

EXT.P6:- COPY OF THE ORDER NO.GO(RT) NO.3605/03/LBR DT. 22.11.03 ISSUED BY THE 1ST RESPONDENT.

EXT.P7:-COP ORDER NO.2107/A1 DT. 17.5.06 OF THE OFFICIATING GROUP COMMANDER OF NCC GROUP HEAD QUARTERS, THIRUVANANTHAPURAM.

EXT.P8:- COPY OF THE ORDER NO.9690/C1/06/LBR DT. 2.9.06 OF THE 1ST RESPONDENT.

EXT.P9:- COPY OF THE RELEVANT PORTION OF THE STATEMENT SHOWING DETAILS OF SERVICE OF THE EMPLOYEES SUBMITTED BY THE PRINCIPAL ITI CHAKKAI.

EXT.P10:- COPY OF THE ORDER NO.A3/10281/07 DT. 4.6.07 ISSUED BY THE 2ND RESPONDENT.

EXT.P11:- COPY OF THE RELEVANT PORTION OF the NCC ACT (AC XXXI OF 1948).

EXT.P12:- COPY OF THE LETTER NO.0175/01.PERS (A) DT. 26.7.07 ADDRESSED TO THE 1ST RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

tss

V.GIRI,J.

W.P (C) No. 18086 of 2007

Dated this the 12th November, 2007

J U D G M E N T

The petitioner, who is an Assistant Hostel Superintendent in the service of the Industrial Training Department has been transferred from the Government I.T.I. Chakkai, Thiruvananthapuram to Government I.T.I. Arecode in Malappuram District. According to him, he is the General Secretary of the Registered Service Association viz., “Industrial Training Department Non Teaching Staff Association”. Therefore he is entitled to immunity from transfer as mentioned in Exhibit-P4. He further claims that he is an Associate N.C.C. Officer who has undergone training at the PRCN, Nagpur. He refers to Exhibit -P12 communication sent by the Deputy Director General NCC to the Secretary to Government, Labour Department pointing out that the petitioner is deputed to attend the Republic Day Camp and Prime Minister's Rally at Delhi as a Deputy Camp Commandant of the Kerala's RD Contingent. In the circumstances, a request has been made to cancel his transfer to Malappuram District for the benefit of senior students of I.T.I, Chakkai.

2. The 3rd respondent is now posted at I.T.I.Chakkai. In spite of service of notice, the 3rd respondent has not entered appearance.

3. In so far as the petitioner's request to cancel his transfer on the strength of his status and the General Secretary of Service Associations is concerned, there is a dispute in the counter affidavit filed by the Government as to whether the petitioner can claim immunity in terms of Exhibit-P4. Petitioner has reiterated this aspect in the reply affidavit filed by him. In my view, it is not necessary to go into this aspect at this stage in view of the course of action proposed to be adopted.

4. The possibility of the services of the petitioner being made available to the students at the I.T.I.Chakkai in view of the petitioner's specialised training as N.C.C. Instructor is a matter which should engage the attention of the Government especially in the light of Exhibit-P12 which has been sent to the Government. For these reasons, I am of the view that the 1st respondent shall take a fresh decision in the matter of posting of Assistant Hostel Superintendent at I.T.I.Chakkai, Thiruvananthapuram in the light of Exhibit-P12, after hearing

the petitioner and the 3rd respondent. Petitioner shall produce a copy of this judgment along with a representation before the 1st respondent. The 1st respondent shall pass orders thereon, within three weeks from the date of receipt of the representation.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007